Supreme Court, U.S.
FILED

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IN THE

SUPREME COURT OF THE UNITED STATES

SCOTT P. THURNER, and
YVONNE E. THURNER,
Petitioners

v.

UNITED STATES OF AMERICA

On Petition For Writ of Certiorari
To The United States Court of Appeals
for the Seventh Circuit

PETITION FOR WRIT OF CERTIORARI

Scott P. Thurner and
Yvonne E. Thurner,
appearing on their own behalf
1500 Sunset Drive
Elm Grove, WI 53122

4899

QUESTIONS PRESENTED FOR REVIEW

1 Are the Petitioners entitled to a Trial by Jury under the Seventh Amendment to the United States Constitution and 28 U.S.C. §§ 2402 and 1346(a)(1)?

2 Under the specific facts of this case, do the penalties and interest, and the interest on the penalties imposed by the Internal Revenue Service amount to an Excessive Fine as that term is used in the Eighth Amendment to the United States Constitution?

3 Does the jurisdiction of the District Court extend to a collection action brought by the United States of America against a citizen of one of the Fifty Union States?

4 Has the Internal Revenue Service complied with the Privacy Act, 5 U.S.C. § 552a, in maintaining a system of records relating to Petitioners, and if the Internal Revenue Service has failed to so comply, may those illegally retained records be used against Petitioners in this action?

5 Does the Internal Revenue Service have the authority, under the applicable regulations, to engage in collection activities against a resident of one of the Fifty Union States?

6 Has the Internal Revenue Service complied with the Administrative Procedures Act, 5 U.S.C. § 552, in a manner that allows it to enforce the Internal Revenue laws and regulations against a citizen of one of the Fifty Union States?

7 Are the records of the Internal Revenue Service entitled to a presumption of correctness despite repeated assertions by Petitioners that the records were not correct, and despite the report of the General Accounting Office, which found that the Internal Revenue Service records are unreliable? In addition, is the presumption of correctness applied by the courts below permissible in light of the recently enacted 26 U.S.C. § 7491?

8 Is it permissible for the Internal Revenue Service to "borrow" regulatory authority from the Bureau of Alcohol, Tobacco and Firearms in order for the Internal Revenue Service to pursue collection activities against citizens of the Fifty Union States?

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OPINIONS BELOW

The decision of the United States Court of Appeal for the Seventh Circuit (Appendix A) is an unpublished decision. The docket number assigned the appeal at the Seventh Circuit was No. 00-3574. The decision and order of the District Court for the Eastern District of Wisconsin (Appendix B) also was unpublished.

JURISDICTION

This Petition for Certiorari is brought pursuant to 28 U.S.C. § 1254(1) and the jurisdiction of this Court is invoked thereby. The now final decision of the Seventh Circuit Court of Appeals was entered on October 17, 2001. Service has been effected upon the Solicitor General of the United States and the Attorney General of the United States by mailing with the United States Postal Service.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The relevant portions of the following constitutional and statutory provisions are reproduced in Appendix C: The Fifth Amendment to the United States Constitution, the Seventh Amendment to the United States Constitution, the Eighth Amendment to the United States Constitution, The Administrative Procedures Act, 5 U.S.C. § 552(a), The Privacy Act, 5 U.S.C. § 552a(e) ad (f), The Federal Register Act, 44 U.S.C. § 1501 et seq., The Buck Act, and 4 U.S.C. § 108, 18 U.S.C. § 7, Special maritime and territorial jurisdiction of the United States defined, and 26 U.S.C. § 7491, "Burden of proof."

STATEMENT

In simple terms, this case is about a family in Milwaukee, Wisconsin, that made a mistake on their taxes in 1980 and 1982. Although the mistake was large at the time, amounting to $850,000, this family has already paid the IRS

over $2.8 million. Yet still, the IRS claims an unpaid balance of another $2.9 million. Additionally, off of the same mistake, they owe the State of Wisconsin $1 million and they owe $1.2 million that they borrowed to pay the IRS. This case is about justice, fairness and right. A mistake made twenty years ago has destroyed this family, and the IRS will not ever let this family get on with their lives.

In 1983 Scott and Yvonne Thurner were issued a deficiency notice for the tax years 1980 and 1981 in the amount of $849,005 relating to deductions taken on losses from gold and platinum spread transactions. The matter was eventually decided before a judge in the United States Tax Court in 1991 in favor of the Internal Revenue Service (IRS) for the amount of $3,577,855.59 including penalties and interest. This includes compounding interest with rates as high as 20%. The IRS also alleged additional money owed for the tax years 1990 and 1992 in the amount of $387,951.76. We have been denied any trial to contest these incorrect assessments. Our family made payments during 1991 and 1992 totaling $2,834,178.10 (over 334% of the original deficiency) bringing the amount owed on the deficiency to less than $750,000. The payments were made in the form of cash, borrowed money, real property, personal property, seized retirement accounts, and the seizure of our family home. Our family has been broken.

The estimated total owed, as of December 1, 2001, to the IRS by us is $2,959,287; the increase from $750,000 represents additions through excessive, compounding, interest rates. The alleged deficiency has cost us about $10,000,000 because of payments, unconscionable and intentional seizure and subsequent auction of our family house (forcing our family to live in Scott's mother's house) and other real property at a below market value after advertising the property for sale at public auction with the wrong address which could not have given prospective bidders an accurate understanding of the land to be auctioned. Additionally, we have taken loans and paid them directly to the IRS. We have been unable to repay these loans, effectively allowing them to compound.

The IRS has been permitted, through the Tax Court decision and Federal Court Summary Judgment, to oppress us

eternally. The IRS has not accepted or even considered a reasonable offer in settlement. We have had our property and future, and the future of our young children, ruthlessly and without compassion seized by the IRS without the benefit of a trial by Jury, and for the years of 1990 and 1992, without the benefit of even a trial by a Judge.

The payments made to date by us are summarized below.

1) On October 21, 1991 Scott borrowed $500,000 cash from a friend without collateral and paid it directly to the IRS.

2) On November 21, 1991 we paid $75,000 cash to the IRS.

3) On December 20, 1991 we paid another $75,000 in partly borrowed cash to the IRS and then notified the IRS that there was no money left.

4) On January 17, 1992 Yvonne's house was sold at a rushed sale at a below market value for $152,534 and 100% of the proceeds were paid immediately to the IRS. Additionally, the family's boat was sold and the proceeds of $8,000 were paid to the IRS.

5) On January 17, 1992 the IRS seized a tax refund for 1979 in the amount of $28,722 and a tax refund for 1982 in the amount of $312,871 and credited us with an interest refund for 1982 in the amount of $521,081.04.

6) On May 05, 1992 real property was seized and sold by the IRS at auction at a below market value. The IRS took 100% of the proceeds of $565,757.

7) On June 03, 1992 the IRS seized the personal checking account of Scott Thurner that contained $3,289. Because of the threat of seizure, neither of us has been permitted to hold a checking or savings account since.

8) On June 26, 1992 the IRS seized Scott's IRA account containing $97,851.

9) The family's residence where we had been raising our four children, three of which were under 10 years of age, was seized and sold at a below market value at auction. The IRS took 100% of the proceeds of $502,071 and forced our family to leave the residence two days before Christmas. Our family complained prior to the auction in a certified letter that the IRS had identified the house with the wrong address. The IRS did not

care and sold the house for substantially less than fair market value anyway.

On January 07, 2000 the IRS filed a law suit in the United Sates District Court For The Eastern District of Wisconsin as Civil No. 00-C-0082 seeking the following relief for the tax years 1981, 1990, and 1992:

a) Judgment in the sum of $2,901,186.37 less payments of $1,673,905.10 plus statutory additions and interest accruing from the dates of assessment.

b) Judgment for court costs; and

c) Such other relief as is just and equitable.

Because the United States and the IRS have left us in debt, we attempted to defend ourselves in court without an attorney. On August 11, 2000, the court ordered in part that "the United States' Motion for Summary Judgment is granted;... " and a judgment was entered against us in the amount of $2,655,132.85 as of August 4, 2000. In the District Court we raised all of the issues listed above generally and specifically.

In the District Court, the United States labeled us as "tax protesters," and received a summary judgment against us. We do not deny this allegation. We admit that we do not enjoy working so that the government can take a third of everything we earn. We do not enjoy the idea that we can never again open a checking or savings account for fear that the IRS will seize our money. We would prefer to take part in the American dream, own a house and have a place to raise our children. The I.R.S. has labeled us as "tax protestors." How many of these so-called "tax protestors" would go out and borrow $600,000 so that they could pay the IRS off?

If we are "tax protesters," then so are almost all Americans. But the IRS uses this phrase to label anyone who resists its force. We have done nothing illegal in our battles with the IRS. The IRS has never accused us of fraud, and has never brought any criminal charges. We have simply set forth our arguments against the IRS in the courts of law. If arguing against the IRS is the sole reason for being labeled a "tax protester," then there is surely something wrong with the system.

Despite being labeled as "tax protesters," we appealed the District Court Order to the Seventh Circuit. In that appeal,

we again argued that the IRS's and the United States' actions were wrong, illegal, unjustified, and unconstitutional. The merits of our arguments received little attention at the Seventh Circuit. The Seventh Circuit dismissed most of the arguments as "frivolous" and only discussed one point raised in the appeal. On that one point, the question as to the presumptive correctness of IRS documents, the Circuit Court ruled against us.

The Circuit Court addressed the complicated issue of the admissibility of the IRS documents in two short sentences, stating: "As they did in the district court, the Thurners contend that the certified transcripts proffered by the government are inadmissible because they lack the required foundation. We held in *United States v. Ryan*, 969 F.2d 238 (7th Cir. 1992), however, that such records are self-authenticating."

The arguments that we set forth were not discussed; the effect of the General Accounting Office report was not discussed, 26 U.S.C. § 7491 was not discussed. The Circuit Court simply recited a citation to one previous case and ruled that we had advanced frivolous arguments. Our arguments are not merely "frivolous." We have advanced arguments which are widely believed, widely reported on, and which have never been addressed by this Court.[1]

If the Seventh Circuit's rule is correct, it is impossible for any individual to ever get a trial on IRS assessments. This flies directly in the face of the right to a Trial by Jury. In effect, if the Seventh Circuit is correct, citizens must prove their case during the discovery process or suffer a Summary Judgment. The presumption of correctness afforded IRS documents makes it impossible for any citizen to advance past an IRS motion for Summary Judgment.

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[1] A quick search of the Internet turns up many addresses espousing and supporting the arguments made by the Thurners. For the sake of brevity, only ten are mentioned here: www.givemeliberty.org, www.freedomabovefortune.com, www.freedomlaw.org, www.freeenterprisesociety.ws, www.taxgate.com, www.anti-irs.com, www.devvy.com, fly.hiwaay.net/~becraft, www.newnetizen.com/irs/batfirsfraud.htm, and www.paynoincometax.com

We now ask this Court to accept our case and review the actions of the courts below. The IRS's seizures, liens, levies, and harassment against our family must be stopped, not only for the sake of our family, but also for the millions of other Americans who will eventually suffer the same fate as we have. The IRS's ruthless conduct is un-American and contrary to every American ideal and philosophy. This Court is in the position to accept this case and rectify the injustice that has been imposed on our family.

If nothing else, we should have been afforded our right to present our case to a Jury of our peers and to hear their verdict.

REASONS FOR TAKING THE CASE

1. THE THURNERS, LIKE MAY OTHER AMERICANS, HAVE BEEN RENDERED DESTITUTE BY THE ACTIONS OF THE UNITED STATES AND THE IRS, IF FOR NO OTHER REASON, THIS COURT MUST CONSIDER THIS CASE TO RENDER A DECISION AS TO THE LEGALITY OF THE IRS'S ACTIONS.

This case presents several issues to the court, which are of great importance. First and foremost, this case is of great importance because this miscarriage of justice is happening to American Citizens. The importance of this case extends beyond merely our family. There are probably thousands of Americans buried under penalties and interest owed to the United States and the IRS.

Although the magnitude of our fines and penalties set us apart from other people, the principle that applies to us also applies to many other people. The United States and the IRS has imposed penalties and fines that we will never be able to pay. We have lost our land, lost our home, lost our retirement accounts, lost the money for our children's college and lost our savings. Yet still, the interest on the IRS claimed debt accumulates at the rate of approximately $500 per day.

The accumulating interest on the debt claimed by the IRS is not the only debt that we owe. As mentioned above, we took out a $600,000 loan in 1992 in an attempt to pay off the IRS. However, we were not able to fully pay off the IRS, so the collection actions against us by the IRS have continued. These continuous collection actions have prevented us from paying back the personal loan we took ten years ago to pay the IRS.

Also, as a result of the deficiency found by the United States Tax Court, we were assessed additional Wisconsin State taxes. Because the United States and the IRS have taken all of our property and assets, we have been unable to pay the State of Wisconsin. Therefore the State of Wisconsin tax deficiency has accumulated interest and is now approaching the $1,000,000 level. Between the debt claimed by the IRS, the Wisconsin State debt, and the outstanding personal loan we took ten years ago, our family is currently in debt in excess of $5,000,000. All of

this is after we already paid the IRS 2.8 million on a mere $850,000 understatement.

This debt is accumulating despite the fact that none of the courts below have adequately answered the questions we have presented. Namely, has the IRS complied with the Privacy Act, 5 U.S.C. § 552a, in maintaining a system of records on us? If the IRS has not complied with the Privacy Act, then may those very records be used against us in this civil action? These points have been bitterly disputed by us throughout this action.

Also, the Administrative Procedures Act, 5 U.S.C. § 552, requires that, before any regulation of a government agency may be used against a citizen of the Fifty Union States, the government agency must publish the regulation and comply with other procedural requirements. To date, neither of the courts below have addressed our contention that the IRS has failed to comply with the APA and that this failure results in a loss of regulatory authority over us, and other residents of the Fifty Union States.

On a related point, we have strenuously argued that the IRS has not adequately enacted its own regulations and that the IRS has illegally used the Bureau of Alcohol Tobacco and Firearms' (BATF's) regulations. A simple review of the Parallel Table of Authorities, part of the Code of Federal Regulations (CFR), reveals that most of the Internal Revenue Code is cited as authority for parts of Section 27 of the CFR. Title 27 of the U.S. Code relates to the BATF, however the IRS enforces Title 26 of the U.S. Code against Citizens of the Fifty Union States through the use of Tittle 27 of the CFR. This is illegal, yet the courts below have ignored these arguments.

Finally, the courts below have granted Summary Judgment against us despite the requirements of the Seventh Amendment to the United States Constitution. Clearly, in this case, there is a great deal more than twenty dollars at stake, yet we have yet to be given a Trial by Jury at any time in the twenty years that this dispute has lasted. This denial of a Trial by Jury is also in clear contravention of 28 USC §§ 2402 and 1346(a)(1). The courts below have ignored our right to be heard by a Jury of our peers. This Court must not do the same.

2. THE ISSUES RAISED BY THE THURNERS HAVE BEEN PERCOLATING FOR YEARS WITHOUT SUPREME COURT GUIDANCE. EVEN IF THE THURNERS ARE INCORRECT AS TO EACH OF THEIR ARGUMENTS, THIS COURT MUST ACT TO SET THE LAW CLEAR FOR ALL THOSE WHO PROMOTE AND ESPOUSE THESE BELIEFS AND THEORIES.

Second, as mentioned above, this case is of great importance because the arguments advanced by us are widely believed by the public and strenuously supported by a great number of people. The American public relies on two main sources for much of their legal understanding. Those that can afford the hundreds of dollars per hour can afford to hire a lawyer. The rest of America must try to inform themselves about the law, and one of the key resources for this is the Internet.

As cited above, a simple search on the Internet concerning tax matters returns literally hundreds of sites, and a good deal of these support and espouse the arguments we have advanced in this case. Repeated searches of Supreme Court opinions show that these arguments find support in cases decided by this Court.

If the IRS and the United States are correct, and we are simply "tax protesters" making "frivolous" arguments, then it is very important that this Court render a decision to that effect. If the IRS is correct, then this Court must come out and support the United States.

On the other hand, if we are correct on even one point, then the IRS has been acting in an unconstitutional, illegal, and unjust manner to the detriment of the American people. This Court was created to protect the People from these sorts of abuses. This Court is our last hope. If we are correct, even on one point, this Court must act. In either case, this case presents issues of great public importance.

We readily admit that it is counter-intuitive, but a clear question exists as to whether the jurisdiction of the District Courts extends to a collection action brought by the United States against a citizen of one of the Fifty States. The United States Code, and the Public Laws, relating to the District Courts

refers to the District Courts as courts of admiralty and equity. This is revealed in Public Law 61-475, March 3, 1911 (Sixty First Congress, Sess. III, Chapter 231, Page 1087, et seq.)

A collection action is an action at law. If the District Courts are courts of admiralty and equity, as stated above, then the District Courts do not have jurisdiction over actions at law. The Federal system of government, which exists in the United States, is unique. For the most part, American citizens are citizens of one of the Fifty Union States first and foremost. We are citizens of the State of Wisconsin, and have been our entire lives. The United States District Court does not have common law jurisdiction over us.

Additionally, even if the District Court had the jurisdiction to hear this case, it has erred in affording the presumption of correctness to the records submitted by the United States and the IRS. It is widely reported that the IRS records are frequently incorrect and poorly maintained.

The United States General Accounting Office recently issued a report calling into question all of the IRS's records. This report was submitted to the courts below and disregarded. The courts below relied on court precedent many years old and held that the records were correct, despite our strenuous objections. Because these records have been afforded a presumption of correctness, we were not afforded a Trial in which to test the correctness of the records.

And when we finally had the resources necessary to have the IRS documents reviewed by a tax accountant, clear errors were found. When those errors were brought to the attention of the Seventh Circuit Court of Appeals, the court refused to consider our supplemental brief. As stated above, we are deeply in debt, we can not afford an attorney, and we have been handling our case on our own behalf. We did plan to call an accountant to testify during a Jury Trial, but because of the lowers courts' reliance on out dated rules, we were never granted a jury trial, never granted the time to have an accountant pour over the IRS records, and we never were granted the right to question the IRS about its records in open court.

In addition, the rule announced by the courts below, that the IRS records are entitled to a presumption of correctness,

even at the Summary Judgment stage, is clearly contrary to the intent of 26 U.S.C. § 7491. We have submitted credible evidence to the courts below calling into question the accuracy of the IRS records, yet the courts below applied the presumption of correctness to those records in clear contravention of 26 U.S.C. § 7491(a)(1). Also, 26 U.S.C. § 7491(c) clearly places the burden of production of the United States with regard to any additions to tax or penalties, however the courts below merely accepted the IRS documents at face value while entering Summary Judgment against us.

The courts below have used every arcane rule, all available procedural devices, and our own financial situation against the pursuit of justice in this case. At one time, the legal system in this country was the envy of the world. It has become a steam roller that protects the corporations and government lawyers while running over and flattening those that can't afford a lawyer.

The way the system was applied in the case against us, citizens who oppose the IRS are required to prove their case long before trial. In effect, the IRS can file its case, wait for twenty days after an answer is filed, then submit its "presumptively correct" records and get a summary judgment long before the defendant is able to develop and present its case. This is not just a theoretical result. This is exactly what happened to us. The IRS records were submitted and accepted as presumptively correct long before we could get our feet under us and prove that the records were wrong. The IRS received a Summary Judgment at a point when discovery had barely begun.

At one time we could afford to put on a vigorous defense, that defense cost us hundreds of thousands of dollars and resulted in a loss in Tax Court. Now that we have little or no resources, we get run over without any regard for our rights. This Court is in a position to stand up and defend those that are being run over by the courts and the government. This Court is the third branch of the government, this Court exists to tell the public what the law is and to protect the public from abuse. We ask this Court to exercise both of these powers in this case.

3. THIS COURT MUST ACT TO AGAIN CLARIFY ITS PREVIOUS DECISIONS. THE COURTS BELOW HAVE MODIFIED THIS COURT'S EIGHTH AMENDMENT DECISIONS IN A MANNER WHICH AFFORDS LESS PROTECTION TO THE PEOPLE THAN THIS COURT INTENDED. THIS COURT MUST TAKE THIS CASE TO GIVE GUIDANCE TO THE COURTS BELOW.

Third, and finally, this case squarely presents the issue of whether tax penalties and interest can become "excessive fines" as that term is used in the Eighth Amendment to the United States Constitution. We have consistently and repeatedly asserted that the actions of the IRS and the United States are unconstitutional. We have also repeatedly argued that the fine levied upon us by the IRS and the United States is unconstitutional, unconscionable and unjust.

However, the lower courts have disregarded us, and our arguments. Throwing around the title "tax protester" does not render this argument "frivolous." It is clear that the lower courts have not read and interpreted the Supreme Court cases correctly. This Court stated in *Austin v. United States*, 509 U.S. 602, 113 S.Ct. 2801, 125 L.Ed.2d 488 (1993), that "we need not exclude the possibility that a forfeiture serves remedial purposes to conclude that it is subject to the limitations of the Excessive Fines Clause. We, however, must determine that it can only be explained as serving in part to punish." *Id.* at 610.

This Court supported that statement with reference to *United States v. Halper*, 490 U.S. 435, 109 S.Ct. 1892, 104 L.Ed. 2d 487 (1989), in which this Court stated that "a civil sanction that cannot fairly be said solely to serve a remedial purpose, but rather can only be explained as also serving either retributive or deterrent purposes, is punishment, as we have come to understand the term." *Id.* at 448.

In our case, we, at most, negligently understated the taxes we owed in 1980 and 1981. As punishment for this mistake, the IRS has extracted over $2.8 million already and continues to assert that another $2.8 million or more is due. On top of this, the amount claimed by the IRS climbs at the rate of $500 each day. This interest will continue to accumulate until the day that we are dead. All of this is penalties imposed by the

IRS because of an original $850,000 understatement. Surely this is a "fine" under the Constitution.

However, the lower courts in this case have ruled that the IRS actions are legal and Constitutionally permitted. Also, the lower courts in other cases have taken the test announced by this Court in *Austin* and *Halper* and eviscerated it. This Court stated, quite clearly, that if the money extracted by the government is solely remedial, then it is not a fine.

The Ninth Circuit Court of Appeals has changed this requirement of solely and replaced it with primarily. The Seventh Circuit Court of Appeals in this case didn't even bother addressing the issue, simply saying that it is frivolous for the Thurners to argue that the IRS is acting unconstitutionally.

The Ninth Circuit Court of Appeals has stated that an IRS addition to tax for non-payment is not a penalty, stating: "The additions to tax at issue in the present case are purely revenue raising because they serve only to deter noncompliance with the tax laws by imposing a financial risk on those who fail to do so." *Little v. Commissioner*, 106 F.3d 1445, 1454 (9th Cir. 1997.)

Also, in *Louis v. Commissioner*, 170 F.3d 1232 (9th Cir. 1999), *cert. denied* 528 U.S. 1115, 145 L. Ed. 2d 812, 120 S. Ct. 932 (2000), the court stated that an IRS penalty did not come within the ambit of the 8th Amendment because "the purposes of additions to tax for fraud are primarily remedial." *Id.* at 1236.

The lower court are imposing a test which is not the test announced by this Court. Primary purposes clearly differ from sole purposes, deterring behavior and imposing financial risks is different from compensating the government for the costs of investigation and litigation. There is a difference between these two tests which must be clarified by this Court.

CONCLUSION

We have come to this Court to ask that our case be heard. The case we are putting before this Court is worthy of consideration. The questions we have presented are of national importance, reaching to the very heart of the system of taxation

employed in this Country. We are two simple individuals who have been destroyed by a government agency run amok.

Had we simply been the victims of a natural disaster, such as a hurricane, we would be in a vastly better situation. Surely, a hurricane is more merciful than the Internal Revenue Service. Victims of a hurricane may lose their entire life's savings, may lose their homes, their livelihood, and their possessions, but they are much more fortunate than we.

Hurricane victims at least know that the wind will die down, and the rain will stop. The sun will rise the day after a hurricane and the rebuilding can begin. We will never be afforded that luxury. The IRS has used the Federal Court system to ensure that we will never be waking to a new day, we will never be rid of a mistake made twenty years ago. The IRS, by virtue of the judgment entered against us in this case, will be able to continue collection actions against us until we die. We come to this Court to ask that we be treated at least as well as the hurricane treats its victims. Never has a hurricane lingered over a neighborhood for twenty years, but the IRS has parked itself on our doorstep and will not let us live. We ask that this Court hear this case and grant us the justice we deserve.

APPENDIX A

UNITED STATES OF AMERICA, Plaintiff-Appellee, v. SCOTT P. THURNER and YVONNE E. THURNER, Defendants-Appellants.

United States v. Thurner

No. 00-3574

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

October 17, 2001 *, Submitted

*** After an examination of the briefs and the record, we have concluded that oral argument is unnecessary. Thus, the appeal is submitted on the briefs and the record. See Fed. R. App. P. 34(a)(2).**

October 17, 2001, Decided

Circuit Judge Richard D. Cudahy, Circuit Judge Kenneth F. Ripple, Circuit Judge Ann C. Williams,

ORDER

The government brought suit against taxpayers Scott and Yvonne Thurner under *26 U.S.C. § 7403* to reduce to judgment unpaid assessments for tax, penalties, and interest. The district court granted summary judgment for the government, and the Thurners appeal. We affirm.

For some years now the Internal Revenue Service has been seeking to collect from the Thurners unpaid taxes for 1981, 1990, and 1992. For tax year 1981 the IRS had issued the Thurners a notice of deficiency that the Thurners challenged without success in the Tax Court. *See Thurner v. Comm'r, 60*

T.C.M. (CCH) 961 (1990). For tax year 1990 the IRS determined the outstanding liability by looking to the Thurners' income tax return, which reported a liability that was not paid. And for tax year 1991 the IRS conducted an audit to determine the deficiency. After including interest and penalties, the amount owed by the Thurners totaled $ 2.9 million, although the IRS successfully collected almost $ 1.7 million of that amount. The government then filed suit in January 2000 to obtain a judgment for the balance.

In March 2000, after the Thurners had objected to subject matter jurisdiction and filed various motions challenging the collection action, the government moved for summary judgment. Attached to the government's motion were IRS certified transcripts of account that were offered to establish the amounts of the assessments subject to collection. In urging the district court to enter judgment in its favor, the government argued that these IRS records were prima facie evidence of the Thurners' liabilities, and that absent contrary evidence from the taxpayers the transcripts of account should be deemed conclusive. The Thurners filed a response to the government's motion for summary judgment, but in their response they did not dispute liability for, or even the amount of, the unpaid assessments but instead principally asserted that the IRS transcripts of account should be deemed inadmissible. The district court rejected this contention and granted summary judgment for the government.

On appeal the Thurners assert a host of arguments challenging the grant of summary judgment, only one of which merits discussion. As they did in the district court, the Thurners contend that the certified transcripts proffered by the government are inadmissible because they lack the required foundation. We held in *United States v. Ryan, 969 F.2d 238 (7th Cir. 1992),* however, that such records are self-authenticating. This argument is therefore unavailing; the Thurners's remaining arguments are frivolous.

The district court's judgment is AFFIRMED. IT IS ORDERED that the government's motion for sanctions is GRANTED. Appellants Scott and Yvonne Thurner are ordered to remit $ 2000 to the Clerk of this court within 14 days of the date of this

order as a sanction for prosecuting this frivolous appeal. *See* Fed. R. App. P. 38; *Cohn v. Commissioner,* 101 F.3d 486, 487 (7th Cir. 1996).

APPENDIX B

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA	)	
	)	
Plaintiff	)	
	)	
v.	)	Civil No.
	)	00-CV-82
SCOTT P. and YVONNE E. THURNER	)	UNITED STATES DISTRICT
	)	COURT EAST DIST WISC
	)	FILED
	)	AUG 11, 2000
	)	SOFRON B. NEDILSKY

ORDER

Upon consideration of the motions pending before the court, it is hereby

ORDERED that the United States' Motion for Summary Judgment is granted; and it is further

ORDERED that the United States Motion to Dismiss Counterclaim is granted; and it is further

ORDERED that the following motions filed by defendants are denied:
Motion for Involuntary Dismissal;
Motion for Sanctions Against US Attorney for Scandalous Pleadings and to Strike Scandalous Pleadings from the Record;
Motion for Leave to File Amended Pleadings and Challenge Jurisdiction; and

Motion for Leave to File Amended Pleading with Attached Amended Answer; and it is further

ORDERED that the following motions are denied as moot:

Defendants' Motion for Order for Disclosure of Exculpatory Evidence;

Defendants' Motion in Limine Admitting as Evidence from the Administrative Record;

Defendants' Motion in Opposition/Objections to Disclosures; and

United States' Motion to Strike Defendants' Brief and Affidavit.

IT IS SO ORDERED

s/_____
LYNN ADELMAN
UNITED STATES DISTRICT JUDGE

DATED: 8/11/00
Milwaukee, Wisconsin

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA	)	
	)	
Plaintiff	)	
	)	
v.	)	Civil No.
	)	00-CV-82
SCOTT P. and YVONNE E.	)	
THURNER	)	UNITED STATES
DISTRICT		
	)	COURT EAST DIST WISC
	)	FILED
–	)	AUG 11, 2000
	)	SOFRON B. NEDILSKY

JUDGMENT

Judgment is entered in favor of the plaintiff, the United States of America, and against the defendant, Scott P. and Yvonne E. Thurner, for the unpaid assessed balances of federal income taxes and related interest and penalties set forth below:

Tax Period Ending	Assessment Date	Assessment Assessed	Unpaid Balance
1981	$500,088.85[1]	June 13, 1991	
1981	$604,775.41[2]	June 13, 1991	
1981	$1,159,541.93[3]	June 13, 1991	
1981	$58,348.49[3]	September 16, 1991	
1981	$15,373.43[3]	October 14, 1991	

[1] Income Tax

[2] Negligence Penalty

[3] Interest

1981	$123,637.96[3]	June 1, 1992	
1981	$51,448.54[3]	October 12, 1992	
			$890,616.15[a]
1990	$217,475.00[1]	December 2, 1991	
1990	$8,695.00[4]	December 2, 1991	
1990	$14,199.75[3]	December 2, 1991	
			$240,309.75[b]
1992	$12,840.44[4]	April 28, 1997	
1992	$16,994.70[5]	April 28, 1997	
1992	$75,532.00[1]	April 28, 1997	
1992	$36,192.31[3]	April 28, 1997	
1992	$6,042.56[4]	April 28, 1997	
			$147,642.01[c]
		TOTAL:	**$1,278,567.91**

plus penalties and interest accruing under law after the dates of assessment, plus additional interest and penalties accruing after the dates of assessment pursuant to 26 U.S.C. §§ 6601, 6621, and 6622, and 28 U.S.C. § 1961(c), until paid.

IT IS SO ORDERED

s/_____
LYNN ADELMAN
UNITED STATES DISTRICT JUDGE

---

[a] Tax Period 1981 Account Balance plus accruals as of August 4, 2000: $1,924,000.19

[4] Late Payment Penalty

[b] Tax Period 1990 Account Balance plus accruals as of August 4, 2000: $537,514.10

[c] Tax Period 1992 Account Balance plus accruals as of August 4, 2000: $193,618.56

DATED: 8/11/00
Milwaukee, Wisconsin

APPENDIX C

FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

SEVENTH AMENDMENT TO THE UNITED STATES CONSTITUTION

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

EIGHTH AMENDMENT TO THE UNITED STATES CONSTITUTION

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

THE ADMINISTRATIVE PROCEDURES ACT
5 U.S.C. § 552(a)

(a) Each agency shall make available to the public information as follows:
(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public--
(A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;
(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;
(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;
(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and
(E) each amendment, revision, or repeal of the foregoing. Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.
(2) Each agency, in accordance with published rules, shall make available for public inspection and copying--
(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;
(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register;

(C) administrative staff manuals and instructions to staff that affect a member of the public;
(D) copies of all records, regardless of form or format, which have been released to any person under paragraph (3) and which, because of the nature of their subject matter, the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records; and
(E) a general index of the records referred to under subparagraph (D);
unless the materials are promptly published and copies offered for sale. For records created on or after November 1, 1996, within one year after such date, each agency shall make such records available, including by computer telecommunications or, if computer telecommunications means have not been established by the agency, by other electronic means. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, staff manual, instruction, or copies of records referred to in subparagraph (D). However, in each case the justification for the deletion shall be explained fully in writing, and the extent of such deletion shall be indicated on the portion of the record which is made available or published, unless including that indication would harm an interest protected by the exemption in subsection (b) under which the deletion is made. If technically feasible, the extent of the deletion shall be indicated at the place in the record where the deletion was made. Each agency shall also maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. Each agency shall make the index referred to in subparagraph (E) available by computer telecommunications by December 31, 1999. Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the Federal Register that the publication would be unnecessary and impracticable, in which case the agency shall nonetheless

provide copies of such index on request at a cost not to exceed the direct cost of duplication. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if--

(i) it has been indexed and either made available or published as provided by this paragraph; or

(ii) the party has actual and timely notice of the terms thereof.

(3) (A) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, upon any request for records which (i) reasonably describes such records and (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.

(B) In making any record available to a person under this paragraph, an agency shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format. Each agency shall make reasonable efforts to maintain its records in forms or formats that are reproducible for purposes of this section.

(C) In responding under this paragraph to a request for records, an agency shall make reasonable efforts to search for the records in electronic form or format, except when such efforts would significantly interfere with the operation of the agency's automated information system.

(D) For purposes of this paragraph, the term "search" means to review, manually or by automated means, agency records for the purpose of locating those records which are responsive to a request.

(4) (A)

(i) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of requests under this section and establishing procedures and guidelines for determining when such fees should be waived or reduced. Such schedule shall conform to the guidelines which shall be promulgated, pursuant to notice and receipt of public comment, by the Director of the

Office of Management and Budget and which shall provide for a uniform schedule of fees for all agencies.
(ii) Such agency regulations shall provide that--
(I) fees shall be limited to reasonable standard charges for document search, duplication, and review, when records are requested for commercial use;
(II) fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research; or a representative of the news media; and
(III) for any request not described in (I) or (II), fees shall be limited to reasonable standard charges for document search and duplication.
(iii) Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.
(iv) Fee schedules shall provide for the recovery of only the direct costs of search, duplication, or review. Review costs shall include only the direct costs incurred during the initial examination of a document for the purposes of determining whether the documents must be disclosed under this section and for the purposes of withholding any portions exempt from disclosure under this section. Review costs may not include any costs incurred in resolving issues of law or policy that may be raised in the course of processing a request under this section. No fee may be charged by any agency under this section--
(I) if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee; or
(II) for any request described in clause (ii)(II) or (III) of this subparagraph for the first two hours of search time or for the first one hundred pages of duplication.
(v) No agency may require advance payment of any fee unless the requester has previously failed to pay fees in a timely fashion, or the agency has determined that the fee will exceed $ 250.

(vi) Nothing in this subparagraph shall supersede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records.
(vii) In any action by a requester regarding the waiver of fees under this section, the court shall determine the matter de novo: Provided, That the court's review of the matter shall be limited to the record before the agency.
(B) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action. In addition to any other matters to which a court accords substantial weight, a court shall accord substantial weight to an affidavit of an agency concerning the agency's determination as to technical feasibility under paragraph (2)(C) and subsection (b) and reproducibility under paragraph (3)(B).
(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.
(D) [Repealed]
(E) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.
(F) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or

capriciously with respect to the withholding, the Special Counsel shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Special Counsel, after investigation and consideration of the evidence submitted, shall submit his findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Special Counsel recommends.
(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member.
(5) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.
(6) (A) Each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall--
(i) determine within 20 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefor, and of the right of such person to appeal to the head of the agency any adverse determination; and
(ii) make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.
(B)
(i) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the unusual circumstances for such extension and the date on which a

determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days, except as provided in clause (ii) of this subparagraph.

(ii) With respect to a request for which a written notice under clause (i) extends the time limits prescribed under clause (i) of subparagraph (A), the agency shall notify the person making the request if the request cannot be processed within the time limit specified in that clause and shall provide the person an opportunity to limit the scope of the request so that it may be processed within that time limit or an opportunity to arrange with the agency an alternative time frame for processing the request or a modified request. Refusal by the person to reasonably modify the request or arrange such an alternative time frame shall be considered as a factor in determining whether exceptional circumstances exist for purposes of subparagraph (C).

(iii) As used in this subparagraph, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular requests--

(I) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(II) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(III) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(iv) Each agency may promulgate regulations, pursuant to notice and receipt of public comment, providing for the aggregation of certain requests by the same requestor, or by a group of requestors acting in concert, if the agency reasonably believes that such requests actually constitute a single request, which would otherwise satisfy the unusual circumstances specified in this subparagraph, and the requests involve clearly related matters. Multiple requests involving unrelated matters shall not

be aggregated.
(C) (i) Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request. Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.
(ii) For purposes of this subparagraph, the term "exceptional circumstances" does not include a delay that results from a predictable agency workload of requests under this section, unless the agency demonstrates reasonable progress in reducing its backlog of pending requests.
(iii) Refusal by a person to reasonably modify the scope of a request or arrange an alternative time frame for processing a request (or a modified request) under clause (ii) after being given an opportunity to do so by the agency to whom the person made the request shall be considered as a factor in determining whether exceptional circumstances exist for purposes of this subparagraph.
(D) (i) Each agency may promulgate regulations, pursuant to notice and receipt of public comment, providing for multitrack processing of requests for records based on the amount of work or time (or both) involved in processing requests.
(ii) Regulations under this subparagraph may provide a person making a request that does not qualify for the fastest multitrack processing an opportunity to limit the scope of the request in order to qualify for faster processing.
(iii) This subparagraph shall not be considered to affect the requirement under subparagraph (C) to exercise due diligence.
(E) (i) Each agency shall promulgate regulations, pursuant to

notice and receipt of public comment, providing for expedited processing of requests for records--

(I) in cases in which the person requesting the records demonstrates a compelling need; and

(II) in other cases determined by the agency.

(ii) Notwithstanding clause (i), regulations under this subparagraph must ensure--

(I) that a determination of whether to provide expedited processing shall be made, and notice of the determination shall be provided to the person making the request, within 10 days after the date of the request; and

(II) expeditious consideration of administrative appeals of such determinations of whether to provide expedited processing.

(iii) An agency shall process as soon as practicable any request for records to which the agency has granted expedited processing under this subparagraph. Agency action to deny or affirm denial of a request for expedited processing pursuant to this subparagraph, and failure by an agency to respond in a timely manner to such a request shall be subject to judicial review under paragraph (4), except that the judicial review shall be based on the record before the agency at the time of the determination.

(iv) A district court of the United States shall not have jurisdiction to review an agency denial of expedited processing of a request for records after the agency has provided a complete response to the request.

(v) For purposes of this subparagraph, the term "compelling need" means--

(I) that a failure to obtain requested records on an expedited basis under this paragraph could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(II) with respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity.

(vi) A demonstration of a compelling need by a person making a request for expedited processing shall be made by a statement certified by such person to be true and correct to the best of such person's knowledge and belief.

(F) In denying a request for records, in whole or in part, an agency shall make a reasonable effort to estimate the volume of any requested matter the provision of which is denied, and shall provide any such estimate to the person making the request, unless providing such estimate would harm an interest protected by the exemption in subsection (b) pursuant to which the denial is made.

THE PRIVACY ACT, 5 U.S.C. 552a (e) and (f).

(e) Agency requirements. Each agency that maintains a system of records shall--
(1) maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or by executive order of the President;
(2) collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs;
(3) inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual--
(A) the authority (whether granted by statute, or by executive order of the President) which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;
(B) the principal purpose or purposes for which the information is intended to be used;
(C) the routine uses which may be made of the information, as published pursuant to paragraph (4)(D) of this subsection; and
(D) the effects on him, if any, of not providing all or any party of the requested information;
(4) subject to the provisions of paragraph (11) of this subsection, publish in the Federal Register upon establishment or revision a notice of the existence and character of the system of records, which notice shall include--
(A) the name and location of the system;
(B) the categories of individuals on whom records are maintained in the system;
(C) the categories of records maintained in the system;
(D) each routine use of the records contained in the system, including the categories of users and the purpose of such use;
(E) the policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records;

(F) the title and business address of the agency official who is responsible for the system of records;
(G) the agency procedures whereby an individual can be notified at his request if the system of records contains a record pertaining to him;
(H) the agency procedures whereby an individual can be notified at his request how he can gain access to any record pertaining to him contained in the system of records, and how he can contest its content; and
(I) the categories of sources or records in the system;
(5) maintain all records which are used by the agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination;
(6) prior to disseminating any record about an individual to any person other than an agency, unless the dissemination is made pursuant to subsection (b)(2) of this section, make reasonable efforts to assure that such records are accurate, complete, timely, and relevant for agency purposes;
(7) maintain no record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity;
(8) make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record;
(9) establish rules of conduct for persons involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record, and instruct each such person with respect to such rules and the requirements of this section, including any other rules and procedures adopted pursuant to this section and the penalties for noncompliance;
(10) establish appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm,

embarrassment, inconvenience, or unfairness to any individual on whom information is maintained;
(11) at least 30 days prior to publication of information under paragraph (4)(D) of this subsection, publish in the Federal Register notice of any new use or intended use of the information in the system, and provide an opportunity for interested persons to submit written data, views, or arguments to the agency; and
(12) if such agency is a recipient agency or a source agency in a matching program with a non-Federal agency, with respect to any establishment or revision of a matching program, at least 30 days prior to conducting such program, publish in the Federal Register notice of such establishment or revision.
(f) Agency Rules. In order to carry out the provisions of this section, each agency that maintains a system of records shall promulgate rules, in accordance with the requirements (including general notice) of section 553 of this title, which shall--
(1) establish procedures whereby an individual can be notified in response to his request if any system of records named by the individual contains a record pertaining to him;
(2) define reasonable times, places, and requirements for identifying an individual who requests his record or information pertaining to him before the agency shall make the record or information available to the individual;
(3) establish procedures for the disclosure to an individual upon his request of his record or information pertaining to him, including special procedure, if deemed necessary, for the disclosure to an individual of medical records, including psychological records, pertaining to him;
(4) establish procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to the individual, for making a determination on the request, for an appeal within the agency of an initial adverse agency determination, and for whatever additional means may be necessary for each individual to be able to exercise fully his rights under this section; and

(5) establish fees to be charged, if any, to any individual for making copies of his record, excluding the cost of any search for and review of the record.

The Office of the Federal Register shall biennially compile and publish the rules promulgated under this subsection and agency notices published under subsection (e)(4) of this section in a form available to the public at low cost.

4 U.S.C. § 108

The provisions of sections 105 to 110 of this title shall not for the purposes of any other provision of law be deemed to deprive the United States of exclusive jurisdiction over any Federal area over which it would otherwise have exclusive jurisdiction or to limit the jurisdiction of the United States over any Federal area.

18 U.S.C. § 7

The term "special maritime and territorial jurisdiction of the United States", as used in this title, includes:
(1) The high seas, any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State, and any vessel belonging in whole or in part to the United States or any citizen thereof, or to any corporation created by or under the laws of the United States, or of any State, Territory, District, or possession thereof, when such vessel is within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.
(2) Any vessel registered, licensed, or enrolled under the laws of the United States, and being on a voyage upon the waters of any of the Great Lakes, or any of the waters connecting them, or upon the Saint Lawrence River where the same constitutes the International Boundary Line.
(3) Any lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof, or any place purchased or otherwise acquired by the United States by consent of the legislature of the State in which the same shall be, for the erection of a fort, magazine, arsenal, dockyard, or other needful building.
(4) Any island, rock, or key containing deposits of guano, which may, at the discretion of the President, be considered as appertaining to the United States.
(5) Any aircraft belonging in whole or in part to the United States, or any citizen thereof, or to any corporation created by or under the laws of the United States, or any State, Territory, district, or possession thereof, while such aircraft is in flight over the high seas, or over any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.
(6) Any vehicle used or designed for flight or navigation in space and on the registry of the United States pursuant to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies and the Convention on Registration of

Objects Launched into Outer Space, while that vehicle is in flight, which is from the moment when all external doors are closed on Earth following embarkation until the moment when one such door is opened on Earth for disembarkation or in the case of a forced landing, until the competent authorities take over the responsibility for the vehicle and for persons and property aboard.

(7) Any place outside the jurisdiction of any nation with respect to an offense by or against a national of the United States.

(8) To the extent permitted by international law, any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.

(9) With respect to offenses committed by or against a national of the United States as that term is used in section 101 of the Immigration and Nationality Act

(A) the premises of United States diplomatic, consular, military or other United States Government missions or entities in foreign States, including the buildings, parts of buildings, and land appurtenant or ancillary thereto or used for purposes of those missions or entities, irrespective of ownership; and

(B) residences in foreign States and the land appurtenant or ancillary thereto, irrespective of ownership, used for purposes of those missions or entities or used by United States personnel assigned to those missions or entities.

Nothing in this paragraph shall be deemed to supersede any treaty or international agreement with which this paragraph conflicts. This paragraph does not apply with respect to an offense committed by a person described in section 3261(a) of this title.

26 U.S.C. § 7491, BURDEN OF PROOF

(a) Burden shifts where taxpayer produces credible evidence.
(1) General rule. If, in any court proceeding, a taxpayer introduces credible evidence with respect to any factual issue relevant to ascertaining the liability of the taxpayer for any tax imposed by subtitle A or B, the Secretary shall have the burden of proof with respect to such issue.
(2) Limitations. Paragraph (1) shall apply with respect to an issue only if--
(A) the taxpayer has complied with the requirements under this title to substantiate any item;
(B) the taxpayer has maintained all records required under this title and has cooperated with reasonable requests by the Secretary for witnesses, information, documents, meetings, and interviews; and
(C) in the case of a partnership, corporation, or trust, the taxpayer is described in section 7430(c)(4)(A)(ii).
Subparagraph (C) shall not apply to any qualified revocable trust (as defined in section 645(b)(1)) with respect to liability for tax for any taxable year ending after the date of the decedent's death and before the applicable date (as defined in section 645(b)(2)).
(3) Coordination. Paragraph (1) shall not apply to any issue if any other provision of this title provides for a specific burden of proof with respect to such issue.

. . .

(c) Penalties. Notwithstanding any other provision of this title, the Secretary shall have the burden of production in any court proceeding with respect to the liability of any individual for any penalty, addition to tax, or additional amount imposed by this title.